

## **Colchester Local Plan Focussed Review – Examination**

### **Inspector's Agendas for Hearings – 8 January 2014**

#### **1. Hearing - Scope of the Review**

##### *1.1 Should there be a full review of the whole Local Plan now?*

The above is sought by Barton Willmore (BW):

- What, in practice, is BW asking me to do/recommend?
- Would agreement to this request mean the present Focussed Review had to be withdrawn?
- Would agreement to this request achieve a full review any sooner than proposed by the Council?
- Bearing in mind that a Council's Local Development Scheme is no longer subject to the Secretary of State's approval, what is the scope/role of an Inspector in considering the overall make-up/staged progression of a Council's Local Plan when required to Examine only one part of it?

##### *1.2 Can/should other policies be brought into the scope of the review which are not already included in the publication/submission version?*

- What is the Inspector's role?

*Martin Robeson refers to the report of the Inspector conducting the Examination of the Chelmsford Focussed Review in which she recommended a change to a transport policy DC6, to possibly support extending the scope of this Review to transport policies (DP17/TA4) for similar reasons. However, I note that at Chelmsford, DC6 was already included within the Focussed Review Draft Submission document (EB 274) which was before the Inspector in the first instance. EB274 is available here: <http://www.chelmsford.gov.uk/csdpc>*

##### *1.3 If I were to confine the scope of the Review only to the policies included within the submitted review Document, I have suggested additional text to be included in the plan at adoption to make clear the limited scope of the Review/Examination (now proposed change MAJ1).*

- Does such an approach rule out dealing with inconsistencies with policies not included in the Review? Does it mean that where inconsistencies arise I have to recommend removal of the policy from the Review that triggers inconsistency with other policies not in the Review?
- At adoption of the Review, will it be clear what policies have been the subject of changes? Will the Review remain a separate document?
- MAJ1 will need amending: *policies adopted in 2013 4 and will replace...*

#### **2. Hearing - Employment policies (CE1, CE3, DP5 and DP9. Also MAJ8 in CD23.)**

The 3 main questions (as set out in my pre-hearing questions) are:

##### *2.1 Do the proposed changes relating to employment policies ensure that the plan enables economic growth and development in a sustainable manner consistent with the NPPF?*

##### *2.2 Do the proposed changes result in policies which are consistent with each other and any relevant unchanged policies in the development plan?*

##### *2.3 Are the policies clearly expressed to be effective?*

## Discussion

2.4 Proposed change MAJ8 to amend the wording of the change to CE3 (deleting *commercial* etc) appears to be supported and necessary for consistency with the NPPF and clarity. Any further comment?

2.5 Martin Robeson concludes (hearing statement, paragraph 4) that the proposed caveat in CE1, CE3 and DP5 allowing greater flexibility *where there is no reasonable prospect* of a allocated site being used for employment should all be deleted as this is a test for plan-making (deciding on what land to allocate/retain) rather than a development management criterion. Bearing in mind that the Focussed Review has not (and this Examination is not) reviewing allocations or the overall scale of provision, is the suggested wording of the proposed changes a reasonable (possibly temporary) response to the NPPF pending a review of allocations in the full plan review?

2.6 Assuming the above wording in CE1 and CE3 is largely retained, what is the purpose/justification of policy DP5 at all? Does not the retention of parts of the policy largely unchanged undermine the flexibility now introduced in the other employment policies? Should the policy be deleted entirely?

- Proposed change to the text (p28 Focussed Review) indicates that the NPPF supports an expanded list of (uses) to increase flexibility for a wider range of employment uses. No greater flexibility is being added to the existing list of appropriate employment uses in DP5. Why should they be retained?
- Given the considerable flexibility now introduced by the proposed change to CE3 (as amended by MAJ8) what is the point of (i) –(iv)?
- Is criterion (v) (maritime coastal character) covered by another policy in the development plan (eg DP23)? If so, cross-referencing/duplication is unnecessary.
- If alternative uses are now to be justified on their merits (in the context of *market signals* and supporting *sustainable local communities* what is the justification for requiring contributions to alternative employment and training? (If a change were to be granted in *exceptional circumstances* - Council's statement penultimate page - ie outside policy, then clearly contributions might be appropriate as part of the negotiated package).
- If the policy were to be deleted, could much of the supporting text also be deleted, with the exception of the first paragraph on p28 which refers to other policies?

2.7 The Council's hearing statement suggests some re-ordering of DP5 (i) – (iv). It suggests that normally only (i) and (ii) would have to be met. However, if a site meets criterion (ii) (*no suitable and viable employment use can be found or is likely to be found*) what is the relevance of (i) (supply of employment land elsewhere to meet needs) since the subject site could not meet any such need?

2.8 The text relating to alternative employment land provision is proposed to be deleted (page 29 of the Focussed Review beginning *In exceptional circumstances...*). This deletes a reference to Appendix 3 of the Development Policies DPD. The Council agrees that Appendix 3 of the DP DPD should also be deleted. Any further comment? If this were the only change needed, could it be done without further consultation?

**3. Hearing - Retail policies** (Table CE1a, CE2b, related text - from top of page 20 to page 24. Also MAJs 3, 4, 5, 14, 15 and 16 in CD23.)

3.1 *Inspector's comments:* Having considered the points made in the hearing statements, I set out some preliminary views as I am particularly troubled by this topic. In doing so, I am seeking to be open with all parties, to make the hearing effective in focussing on what concerns me most and enable discussion of an appropriate way forward.

3.2 I find consideration of the proposed changes to retail policy/text particularly messy. At face value, there are a several inconsistencies between the NPPF and the centres classification/hierarchy (relating to the position of *edge of centre locations*) and policies and text (and the Council's hearing statement) which make a distinction between the town centre and (other) centres, not supported by the definition of centres in the NPPF. Whilst the Focussed Review makes changes to reflect some elements of the NPPF, I have found it very difficult to properly assess the merits of these in isolation because the existing plan does not fit the NPPF approach in other respects. The proposed changes would tend to reinforce the inconsistencies.

3.3 The Council notes (hearing statement p 3) a need to redefine Urban and Rural District Centres in the new local plan to take into account the need to set them apart from Town Centres if it wishes to safeguard the (Colchester) Town Centre and a need to review policies for the Town Centre *potentially resulting in a more far reaching redefinition of terminology and regulation of different uses* in the full plan review (statement p5).

3.4 In this context, my strong preliminary view remains that this Examination cannot contemplate a change to the position of centre types in the Classification/Hierarchy (Table CE1a) for 3 overlapping reasons:

- Despite the inclusion of Table CE1a, no such re-ordering is proposed. Any re-ordering would need to be the subject of further work and consultation and inevitably require a further hearing at which there might well be new parties and new issues.
- It would affect the spatial strategy and the plan's overall intentions of what should be delivered where (eg as set out in policy CE2 not included in the Review), which is not part of this Focussed Review and should not be considered in isolation;
- Any reassessment of the classification/hierarchy should be informed by a reassessment of the capacity to deliver the needed scale of town centre uses in centres, including a review of the boundary of centres to accommodate those needs. That has not been done.

3.5 Conversely, given the divergence from the NPPF, it would be inappropriate for me to explicitly (or implicitly) support a proposed change which further endorsed the existing hierarchy in Table CE1a. I had understood that the only proposed change included in the Focussed Review was the addition of the *Northern Gateway* to the Table. That is proposed to be deleted in MAJ7. If that were the only change and given the proposed deletion, Table CE1a could be removed from the pages of the Focussed Review.

3.6 However, Martin Robeson highlights that: *and other Accessible Locations* has been added to the Table in the Focussed Review after *Edge of Centre* but not underlined as a change. I had not realised that this was an intended change. Given that it has not be properly highlighted, I may not be alone in missing its significance. I could not endorse it without further consultation, but it could be left out without consultation.

3.7 MAJ4 proposes the deletion of *Local Shops* from the Table (which is generally supported) consistent with other deletions relating to Local Shops. If I were to

recommend that change and the Table stayed in the Focussed Review I would have to add a caveat along the following lines: *Apart from the deletion of the reference to local shops within Local Centres, the definition of centres and their position in the Hierarchy was not reviewed or endorsed as part of the Examination of the Focussed Review changes.* My current preference is to remove the table from the Review to avoid any ambiguity.

3.8 All the above make the proposed changes to the text at the top of P20 also problematic. The first sentence is proposed to be changed in a manner consistent with the NPPF since it refers to *centres* (plural). Also consistent with the NPPF is the newly introduced definition of centres in the Glossary which includes the full range of centres (and not the edge of centre/urban gateways). However, the 2<sup>nd</sup> sentence switches to *town centre* (singular) which I could not support. The 3<sup>rd</sup> sentence continues in that vein and introduces *urban gateways* and urban district centres. Because of the debatable status of urban gateways in the hierarchy, I could not support this addition. Finally, distances of 300m and 500m from the town centre core are referred to for town centre uses and office/mixed use respectively. This wording does not comfortably sit with the NPPF (Glossary: Edge of Centre).

3.9 I have not seen the evidence to justify that the inner and outer core equate to the primary shopping area (and I am not inviting new evidence since this would not have been seen by other interested parties). Consistent with my approach above, I could not support any changes which gave endorsement to the existing classification/hierarchy.

3.10 MAJ14 would remove most of the questionable detail (new and existing) from this paragraph. However, it still contains the contradiction of referring to *centres* in the first sentence and *town centre* (singular) in the 2<sup>nd</sup> sentence. I could not recommend this change with this contradiction and downgrading of the status of other centres.

3.11 My options are to either:  
recommend a slightly shortened version of MAJ14:

In accordance with the National Planning Policy Framework, centres will be the primary location for retail, office, leisure and entertainment uses. The sequential approach will be applied. Only if suitable sites are not available should out of centre sites be considered.

or recommend that the paragraph at the top of p20 be left unchanged and either removed from the covers of the Focussed Review or with the following additional sentence: *The approach set out above will need to be reviewed as part of the full review of the local plan and was not amended or endorsed as part of the Examination of the Focussed Review changes.*

With either option, any decision-maker would have to apply the *edge of centre* distances from the NPPF to local circumstances as seemed appropriate at the time.

3.12 The Glossary of the Focussed Review introduces a definition of *Urban Gateways* which reflects its status as shown in Table CE1a. Given what I have said above, I could not support this addition as it would be reinforcement of what I am proposing not to examine.

3.13 *In the light of the above, I will ask the Council first and then other parties, what I should do in relation to each policy text referred to.* (As will be clear from

the above, my current intention is not to explore the planning merits of the existing centres classification/hierarchy.)

#### *Retail impact thresholds*

3.14 The proposed addition of retail impact thresholds for development within the rural and urban district centres has no support from the NPPF and the evidence identifying these thresholds makes clear, certainly with regard to the threshold of 500 sqm, that it is to protect the smaller rural centres not to inhibit development within them (ED/8, p39).

3.15 My strong preliminary view is that these changes are not justified. They are undone by MAJ15 and MAJ16 (the latter also removes the current requirement to meet local needs and not compete with Town Centre which is also not justified). I therefore could recommend these changes which are supported by representations/participants.

3.16 Any further comment from the Council?

#### *Local shops*

3.17 *The Focussed Review proposes the deletion of the reference to local shops being safeguarded.* This is consistent with the exclusion of small parades of shops from the definition of town centre in the Glossary of the NPPF.

3.18 For consistency with rest of the development plan a change is required to DP7 not previously included in the review. This is made in MAJ3. Other consequential changes are included in MAJ4 and 5.

3.19 Martin Robeson raises concerns about various references in the last paragraph of DP7 if it is to be drawn into the Focussed Review (appropriate *scale*, reference to *shops* and *masterplan*). These could be discussed at the hearing, but these concerns may reinforce my growing disinclination to add this other policy to the Focussed Review.

3.20 I do not regard the deletion of references to local shops as a major issue. It is clear (and agreed by all parties) that current references are inconsistent with NPPF. But given this clarity, ensuring comprehensive deletion of all such references in the development plan may not be critical.

## **4. Hearing - Other policies within the Focused Review**

### **4.1 Policies SD1 and SD2**

Martin Robeson to briefly highlight remaining concerns.

### **4.2 Policy H4**

Mersea Homes to briefly highlight remaining concern.

### **4.3 Policy ER1**

Mersea Homes to briefly highlight remaining concern.

Inspector's question:

4.4 In ER1 the policy proposes to reduce carbon emissions by 25% from 2010 and now 44% from 2013. From what starting point? What is the base date/figure for the percentage reduction to be measured from – is it the level

allowed by Building Regulations in 2006? Should this be added to the text for clarity?

Policy DP13 (Annexes)

*Inspector's comments*

4.5 I am rather confused as to the Council's reasoning for the further changes. As now suggested (hearing statement p7 and 8), DP13 section (C) would remain unchanged except:

- criterion (v) would be a stand-alone point
- some minor changes - deletion of the word *rural* in criterion (iv) and tweaking of the opening sentence.

4.6 Making (v) stand alone seems a small change simply to improve the layout of the policy - a problem highlighted in the appeal decision referred to by the Council (2175678).

4.7 But the hearing statement then goes on to suggest that criteria 1-4 are repeated so as to apply within development boundaries. The Council has not clearly explained why this is needed. Given that new dwellings are acceptable in principle within the development boundary, why do annexes need to be so restricted? The appeal decision does not support the need for this change. The main problem highlighted by the Inspector was the attempted use by the Council of DP13 (C) in a rural location where the annex was an existing building to which DP13 section (C) would still not apply. (My reading, is that criteria i-iv apply only to new buildings since the preface to the criteria makes clear that first preference is for annexes to be within existing buildings or building suitable for conversion). This all seems to be getting more complicated than it needs to be. Council to clarify/reconsider what is the "problem" that the changes are seeking to address.

**5. Hearing - Other policies not within the Focused Review**

(Provisional hearing only)

**Simon Emerson**  
**Inspector**  
**2 January 2014**